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Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTIAN CLAUSTRO,

Defendant.

CASE NO. 1:22-MJ-00197-SAB

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
FINDINGS AND ORDER

DATE: June 5, 2023
TIME: 2:00 p.m.

This case is set for a preliminary hearing on June 5, 2023. The parties agree and stipulate to continue the preliminary hearing until August 9, 2023. Defense counsel requested the government to consider deferred prosecution. The government is in the process of retaining an expert to assist in evaluating the circumstances that may make the case appropriate for the defendant's requested disposition. The parties need additional time work through the analysis.

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for preliminary hearing on June 5, 2023.
2. By this stipulation, defendant now moves to continue the preliminary hearing until **August 9, 2023, at 2:00 p.m.** and to exclude time between June 5, 2023, and August 9, 2023, under Local Code T4.

1 3. The parties agree and stipulate, and request that the Court find the following:

2 a) The parties are discussing and conducting further investigation into pre-
3 indictment matters, including consideration of embarking on the process to request deferred
4 prosecution, and need additional time to conclude that process.

5 b) The government represents that discovery consists of reports, and that an initial
6 dissemination of discovery has been provided to defense, consisting of National Park Service
7 Reports and the defendant's criminal history.

8 c) Counsel for defendant desires additional time to consult with her client, conduct
9 further investigation, and discuss charges with the government. Defense has continued to
10 investigate various issues related to the facts and a resolution since the last continuance was
11 granted. Counsel for defendant also requested the government to consider deferred prosecution,
12 and the government is gathering information necessary to do so.

13 d) Counsel for defendant believes that failure to grant the above-requested
14 continuance would deny him the reasonable time necessary for effective preparation, taking into
15 account the exercise of due diligence.

16 e) The government does not object to the continuance.

17 f) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held "no later
18 than 14 days after initial appearance if the defendant is in custody," unless the defendant
19 consents and there is a "showing of good cause". Here, the defendant consents and there is good
20 cause as set forth herein.

21 g) Based on the above-stated findings, the ends of justice served by continuing the
22 case as requested outweigh the interest of the public and the defendant in an indictment or trial
23 within the original dates prescribed by the Speedy Trial Act.

24 h) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
25 et seq., within which an indictment must be filed and within which a trial must commence, the
26 time period of June 5, 2023 to August 9, 2023, inclusive, is deemed excludable pursuant to 18
27 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a continuance granted by
28 the Court at defendant's request on the basis of the Court's finding that the ends of justice served

1 by taking such action outweigh the best interest of the public and the defendant in a speedy
2 indictment/trial.

3 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
4 Speedy Trial Act dictate that additional time periods are excludable from the period within which an
5 indictment must be filed and a trial must commence.

6 IT IS SO STIPULATED.

7 Dated: June 2, 2023

PHILLIP A. TALBERT
United States Attorney

8
9 /s/ KIMBERLY A. SANCHEZ
KIMBERLY A. SANCHEZ
Assistant United States Attorney

10
11 Dated: June 2, 2023

/s/ ERIN SNIDER
ERIN SNIDER
Counsel for Defendant
CHRISTIAN CLAUSTRO

12
13
14 **FINDINGS AND ORDER**

15 Having reviewed the parties Stipulation and proposed findings, the Court finds the following:

16 a) The parties are discussing and conducting further investigation into pre-
17 indictment matters, including potential deferred prosecution, and need additional time to
18 conclude that process.

19 b) The government represents that discovery consists of reports, and that an initial
20 dissemination of discovery has been provided to defense, consisting of National Park Service
21 Reports and the defendant's criminal history.

22 c) Counsel for defendant desires additional time to consult with her client, conduct
23 further investigation, and discuss charges with the government. Defense has continued to
24 investigate various issues related to the facts and a resolution since the last continuance was
25 granted. Counsel for defendant also requested the government to consider deferred prosecution,
26 and the government is gathering information necessary to do so.

27 d) Counsel for defendant believes that failure to grant the above-requested
28 continuance would deny him the reasonable time necessary for effective preparation, taking into

1 account the exercise of due diligence.

2 e) The government does not object to the continuance.

3 f) Pursuant to F.R.Cr.P. 5.1(c) and (d), a preliminary hearing must be held “no later
4 than 14 days after initial appearance if the defendant is in custody,” unless the defendant
5 consents and there is a “showing of good cause”. Here, the defendant consents and there is good
6 cause as set forth herein.

7 g) Based on the above-stated findings, the ends of justice served by continuing the
8 case as requested outweigh the interest of the public and the defendant in an indictment or trial
9 within the original dates prescribed by the Speedy Trial Act.

10 h) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
11 et seq., within which an indictment must be filed and within which a trial must commence, the
12 time period of June 5, 2023 to August 9, 2023, inclusive, is deemed excludable pursuant to 18
13 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at
14 defendant’s request on the basis of the Court’s finding that the ends of justice served by taking
15 such action outweigh the best interest of the public and the defendant in a speedy
16 indictment/trial.

17 IT IS HEREBY ORDERED that the preliminary hearing scheduled for **June 5, 2023 at 2:00**
18 **p.m. is continued to August 9, 2023 at 2:00 p.m.** IT IS FURTHER ORDERED that the time between
19 June 5, 2023 and August 9, 2023 is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it
20 results from a continuance granted by the Court at defendant’s request on the basis of the Court’s
21 finding that the ends of justice served by taking such action outweigh the best interest of the public and
22 the defendant in a speedy indictment/trial.

23
24 IT IS SO ORDERED.

25 Dated: June 2, 2023

/s/ Barbara A. McAuliffe
26 UNITED STATES MAGISTRATE JUDGE